

September 15, 2014

**VIA ECF**

Honorable Esther Salas  
United States District Judge  
United States District Court  
District of New Jersey  
Martin Luther King, Jr. Federal Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

Re: NYSA-PPGU Pension Fund, *et al.* v. American Stevedoring, Inc., *et al.*  
**Civil Action No.: 2:12-CV-2309 (ES) (JAD)**

Dear Judge Salas:

This joint letter is submitted to follow up on the two letters sent by Janine Bauer, dated September 8, 2014, in connection with the Court's September 5, 2014 Order, which required counsel to inform the Court by close of business last Monday on the status of the case. *See* Docket # 110.

The parties have agreed to submit this matter, along with several other related matters, to mediation. Specifically, American Stevedoring, Inc. ("ASI"), the NYSA-PPGU Pension Fund (plaintiffs herein), the NYSA-ILA Pension Trust Fund ("PTF"), the NYSA-ILA Money Purchase Pension Fund and Plan, the NYSA-ILA Fringe Benefits Escrow Fund, the NYSA-ILA Container Royalty Fund, and the defendants in the Civil RICO action have agreed to mediate the several disputes and litigations between and among them before a mediator to be designated by the United States District Court for the Southern District of New York. It is the collective judgment of those parties that such a mediation would serve the interests of judicial economy, and reduce litigation costs.

Further to such an arrangement, the parties have agreed to request stays of litigation, deadlines, and judgment collection in all matters to which they are parties with each other pending completion of the mediation process. These include the above-referenced action (2:12-CV-2309); the Civil RICO action styled *American Stevedoring, Inc. v. International*

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*Ass'n., et al. v. American Stevedoring, Inc.* (N.Y. Sup. Ct. 52194/14); *International Longshoremen's Ass'n., et al. v. American Stevedoring, Inc.* (E.D.N.Y. 12 CV 1325); and, as it pertains to a certain motion to intervene by NYSA-ILA Pension Trust Fund, NYSA-ILA Fringe Benefits Escrow Fund, NYSA-ILA Container Royalty Fund and NYSA-ILA Money Purchase Pension Fund and Plan in the action styled *Port Authority of New York and New Jersey v. American Stevedoring, Inc.* (N.Y. Sup. Ct. 154871/12). If the mediation is unsuccessful, then all matters will resume at the point they were at when stayed.

It is our understanding that all affected parties to the above-referenced actions have agreed to utilize a mediator to facilitate a final settlement of the issues. This process, however, will require additional time to complete.

In view of the discussions and comments exchanged between and among counsel for the parties since the last telephone Court Conference, the undersigned are confident that the proposed mediation will bear fruit and result in a global settlement. In order to accomplish this global settlement, the parties hereby request that the Court postpone the briefing schedule until the completion of the mediation process.

The parties intend to use the time available to them to schedule and participate in the above-referenced mediation. As per Your Honor's Order, issued September 12, 2014, the motion for summary judgment (D.E. No. 71) will remain in abeyance pending the Court's resolution of Defendant's Motion to Disqualify Counsel.

A letter outlining the parties' agreement concerning the terms of mediation will be submitted to Judge Katherine Polk Failla of the United States District Court for the Southern District of New York, who presides over the Civil RICO case. A copy of the letter to Judge Failla is enclosed.

Respectfully submitted,

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Honorable Esther Salas

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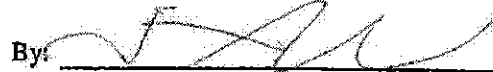
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September 17, 2014

## VIA ECF

Honorable Katherine Polk Failla  
United States District Judge  
United States District Court  
Southern District of New York  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: American Stevedoring, Inc. v. International Longshoremen's Ass'n, AFL-CIO  
Civil Action No.: 1:13-CV-00918 (KPF)

Dear Judge Failla:

As was discussed during the September 8, 2014 status conference before Your Honor, the parties were unable to agree to mediate this case along with several other related matters. *See* September 8, 2014 Conference Transcript, at 6, 1.16-20. However, we are happy to report that, since that conference, the parties have been able to agree upon terms for mediation of this dispute as well as several other related matters. We have attached a letter for your review which contains the agreed-upon terms for mediation. Thank you for your anticipated assistance.

Respectfully submitted,

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September 15, 2014

VIA ECF

Honorable Katherine Polk Failla  
United States District Judge  
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Southern District of New York  
Thurgood Marshall  
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40 Foley Square  
New York, NY 10007

Re: American Stevedoring, Inc. v. International Longshoremen's Ass'n, AFL-CIO  
Civil Action No.: 1:13-CV-00918 (KPF)

Dear Judge Failla:

We write to provide you an update concerning the parties' efforts to agree to mediation as discussed during the September 8, 2014 status conference. The parties have agreed to submit this matter along with several other related matters to mediation. Specifically, American Stevedoring, Inc. ("AST"), the NYSA-PPGU Pension Fund, the NYSA-ILA Pension Trust Fund ("PTF"), the NYSA-ILA Money Purchase Pension Plan and Fund, the NYSA-ILA Fringe Benefits Escrow Fund, the NYSA-ILA Container Royalty Fund, and the International Longshoremen's Association, AFL-CIO, the Port Police and Guards Union, as well as Messrs. Harold J. Daggett, Stephen Knott, Louis Pernice, John T. Oates and any other defendants herein have agreed to mediate the several disputes and litigations between and among them before a mediator whom we would ask Your Honor to designate in accordance with Local Civil Rule 83.9 and the Procedures of the Mediation Procedure. It is the collective judgment of those parties that such a mediation would serve the interests of judicial economy and reduce litigation costs.

Further to such an arrangement, the parties have agreed to request stays of litigation, deadlines, and judgment collection in all matters to which they are parties with each other pending completion of the mediation process. These include the above-referenced action (1:13-CV-00918 (KPF)); *NYSA-PPGU Pension Fund, et al. v. American Stevedoring, Inc.* (D.N.J. 2:12-cv-2309 (ES) (JAD)); *NYSA-ILA Pension Trust Fund, et al. v. American Stevedoring, Inc.* (S.D.N.Y. 12 Civ. 2506); *International Longshoremen's Ass'n, et al. v. American Stevedoring, Inc.* (N.Y. Sup. Ct. 52194/14); *International Longshoremen's Ass'n, et al. v. American Stevedoring, Inc.* (E.D.N.Y. 12 CV 1325); and, as it pertains to a certain motion to intervene by NYSA-ILA Pension Trust Fund, NYSA-ILA Fringe Benefits Escrow Fund, NYSA-ILA Container Royalty Fund and NYSA-ILA Money Purchase Pension Fund and Plan in the action styled *Port Authority of New York and New Jersey v. American Stevedoring, Inc.* (N.Y. Sup. Ct. 154871/12). If the mediation is unsuccessful, then all matters will resume at the point they were at when stayed.

Honorable Katherine Polk Failla

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Counsel for all affected parties to the above-referenced actions signed this letter to indicate their agreement to the terms of the mediation set forth in this letter and are hopeful that the proposed mediation would result in a global settlement. In order to accomplish this global settlement, the parties hereby request a stay of any motion practice in this case until mediation is completed. A letter outlining the parties' agreement concerning the terms of mediation has been submitted to Judge Esther Salas of the United States District Court for the District of New Jersey, who presides over the action involving the NYSA-PPGU Pension Fund and ASI. A copy of the letter to Judge Salas is enclosed.

Respectfully submitted,

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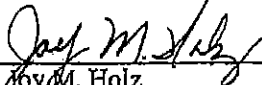
Honorable Katherine Polk Failla

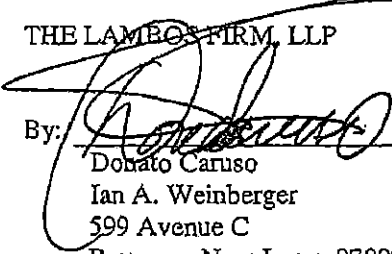
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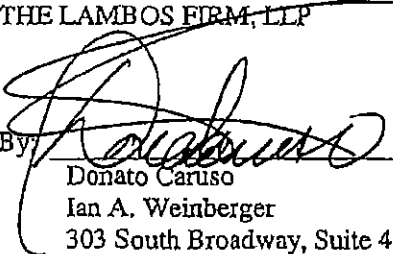
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